

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Sr. No.130**CR-4912-2023****Date of decision: 28.08.2023****NARESH KUMAR****.....Petitioner****versus****NAZAR AHMAD AND OTHERS****.....Respondents****CORAM: HON'BLE MR. JUSTICE NAMIT KUMAR**

Present: Mr. Vimal Kumar Gupta, Advocate
for the petitioner.

NAMIT KUMAR, J. (ORAL)

1. The challenge in the present petition is to the order dated 26.07.2023, passed by the Court of learned Additional District Judge, Panipat, whereby, objections filed by the petitioner/JD No.2, have been rejected and it has been directed to the decree holder to file list of property of JD No.2 on or before 26.09.2023.

2. Learned counsel for the petitioner submits that against the award dated 04.04.2022, the petitioner has already preferred a first appeal, which is under scrutiny and till the decision of the said appeal, the impugned order may not be given effect to.

3. I have heard learned counsel for the petitioner and perused the record.

4. The impugned order dated 26.07.2023 reads as under:-

“Arguments on objections filed by JD No.2 heard. It is submitted by the learned Advocate for the JD No.2 that the decree-holder has obtained the Award from the Tribunal by concealments of facts. It is submitted that the JD No.2 was not the registered owner of the offending vehicle at the time of accident. As such, the Award dated 04.04.2022 passed in favour of decree-holder is not maintainable against JD No.2 and the execution filed by decree holder is liable to be dismissed.

2. *On the other hand, it is submitted by the learned Advocate for the decree-holder that the objections filed by the JD No.2 are false and frivolous. It is submitted that the learned Tribunal had already decided this question vide passing Award dated 04.04.2022 and the executing Court cannot go behind the Award. As such, the objections filed by the JD No.2 are liable to be dismissed.*

3. After hearing the arguments advanced by both the parties and having perused the case file carefully, it is very much evident that the learned Tribunal has passed Award dated 04.04.2022 and has held that JD No.2 was the owner of the offending vehicle. The executing Court cannot go behind the Award and cannot set aside the findings of the Tribunal. The efficacious remedy available to the judgment debtor is to challenge the Award in the Appellate Court. The objections filed by the JD No.2 are without any merit and the same are therefore dismissed.

The perusal of file reveals that the execution was pending for issuing notice to JD No.1 and 3. Let, notice to JD No.1 and 3 be issued for 26.09.2023. Copy of petition etc. be filed within 7 days. Notice be given dasti, if so, requested.

The decree holder is directed to file list of property of judgment debtor No.2 on or before 26.09.2023. If the list of property belonging to judgment debtor No.2 filed by the decree holder, warrants of attachment against the property of judgment debtor No.2 be issued forthwith. Munadi expenses be also deposited by decree holder along-with the list of property.”

5. The award was passed on 04.04.2022 and a period of more than 1 year and 4 months has elapsed and vague argument has been raised by the learned counsel for the petitioner that the appeal filed against the said award is under scrutiny. The fact remains that the said award has not been stayed.
6. There is no perversity or illegality in the impugned order dated 26.07.2023, passed by the Court of learned Additional District Judge, Panipat.
6. Hence, the present petition stands dismissed.

(NAMIT KUMAR)
JUDGE

28.08.2023
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Whether speaking/reasoned	:	Yes/No
Whether reportable	:	Yes/No